HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

Writ Petition No. 7141 of 2004

Dated: 20th September, 2005

Between:

D.Laxman, S/o.Pochaiah,

R/o.Narasingapur Village, Dharmavaram Mandal,

Karimnagar District.

..... PETITIONER

AND

1. The Revenue Divisional Officer, Peddapalli,

Karimnagar District and others.

.....RESPONDENTS

HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

Writ Petition No. 7141 of 2004

ORDER:

This writ petition has been filed by D.Laxman assailing the action of the Revenue Divisional Officer, Peddapalli, Karimnagar District-1st respondent in withdrawing 'No Confidence Motion' for want of quorum.

2. Petitioner is a member in Narasingapur Gram Panchayat. The Gram Panchayat consists of eleven members including the Sarpanch. Eight ward members submitted

a notice of intention in Form-I dated 19.02.2004 to make a move of expressing 'No Confidence' against Upa-Sarpanch of Gram Panchayat viz., B.Venkata Rami Reddy-4th respondent. The first respondent issued notice in Form-IV dated 26.02.2004 to all the ward members intimating that the meeting of the Gram Panchayat will be held at Gram Pancvhayat Office, Narasingapur, on 17.03.2004 at 11.00 a.m. On 17.03.2004 out of eleven members, seven including the Sarpanch attended the meeting. The first respondent dissolved the meeting scheduled for discussing 'No Confidence Motion' for want of quorum. This action is assailed in the writ petition.

3. The first respondent filed counter affidavit. It is stated in the counter affidavit that the required quorum for the meeting is eight as per G.O.Ms.No.253 PR & RD dated 06.06.1998 and as there was no quorum on 17.03.2004, the meeting came to be dissolved. I deem it appropriate to refer para. 5 of the counter affidavit and it is thus:

> "It is further submitted that firstly amendment to the provisions of the Sec.245 of A.P. Panchayat Raj Act, 1994, was issued by the Government vide G.O.Ms.No.200 PR & RD (Mdl.-II) Dept., dt.28.04.1998 and subsequently the rules framed vide G.O.Ms.No.200, dt.28.04.1998 were amended vide G.O.Ms.No.253 PR & RD (Mdl.-I) Dept., dt.06.06.1998. As the rules framed vide G.O.Ms.No.200 were amended by G.O.Ms.No.253, the existence of the amendments made vide G.O.Ms.No.200 stood repealed and those provisions will not apply after the amendment issued vide G.O.Ms.No.253 for any purpose. Likewise, in this matter also, the petitioner is challenging the result declared by the respondent No.1 in the light of the provisions contained in G.O.Ms.No.200, which are seized to be in force. In the proceedings recorded in the matter which were communicated to the respondent No.2 and as well as to all the members of the G.P. by the respondent No.1 vide ref.No.D/442/2004, dated 18.03.2004 it was clearly mentioned that "the required quorum for the meeting is (8) as per G.O.Ms.No.253-PR & RD dt.6.6.1998 (rule-6), only (7) out of (11) members have attended, hence as per rule-7 since the required quorum for conducting the meeting is not available, the notice given under rule-2 lapsed and the meeting stands dissolved". As such, the provisions of G.O.Ms.No.200 are not applicable at present and in the present case and the claim of the petitioner needs no consideration."

4. Despite notice being served on the 4th respondent, he did not choose to enter appearance either in person or through a counsel.

5. Heard counsel appearing for the petitioner and learned Government Pleader for Panchayat Raj and Rural Development appearing for the respondents 1 to 3.

6. Learned counsel appearing for the petitioner submits that the understanding of first respondent with regard to quorum is not in accordance with the rules relating to 'No Confidence Motion' in Upa-Sarpanch of Gram Panchayat vide G.O.Ms.No.200 PR & RD, dated 28.04.1998. He further submits that as per Rule 6, the quorum for 'No Confidence Motion' shall be two thirds of the total number of members.

7. As per the explanation to Rule 6, in determining of two thirds of the total number of the members, any fraction below 0.5 shall be ignored and any fraction of 0.5 or above shall be taken as one. This rule position is not controverted by the learned Government Pleader for Panchayat Raj and Rural Development appearing for the respondents 1 to 3.

8. Such is the rule position, the total number of members required for passing the motion is only 7 out of total number of members i.e. 11. Admittedly 1+7 members were present on the date of motion. Thus, the action of the first respondent in dissolving the meeting for want of quorum cannot be justified.

9. Accordingly, the writ petition is allowed directing the first respondent to proceed with the 'No Confidence Motion' moved against the 4th respondent in accordance with the rules vide G.O.Ms.No.200 PR & RD dated 28.04.1998. No costs.

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B.SESHASAYANA REDDY, J.

Dated: 20th September, 2005.

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